

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

OSTAP KAPELIOUJNYI,

Plaintiff,

v.

CIV 09-0866-LH-GBW

L. VAUGHN, as Warden and in his  
individual capacity, B. JUDD, as Assistant  
Warden "Acting Chaplain" and in her  
individual capacity, CORRECTIONS  
CORPORATION OF AMERICA, CCA,

Defendants.

ORDER DENYING MOTION FOR SANCTIONS

This matter is before the Court on Plaintiff's Motion for Sanctions and  
Defendants' Opposition thereto. *Doc. 21, 23.*

Plaintiff requests sanctions pursuant to Rule 11(c) of the Federal Rules of Civil  
Procedure for alleged false statements made by Defendants in their affidavits and  
pleadings. *Doc. 23* at 1. Prior to filing such a motion, a party must first serve the  
motion under Rule 5, and then must wait to file it for at least 21 days after service. FED.  
R. CIV. P. 11(c)(2). This mandatory delay is designed to give the non-moving party an  
opportunity to withdraw or correct the offending pleading or claim. FED. R. CIV. P. 11,  
Advisory Committee Notes. In his Motion, Plaintiff did not certify that he complied  
with this requirement. Defendants contend that he did not, and Plaintiff does not refute

Defendants contention in a reply as he did not file one. Given that it is uncontested that Plaintiff failed to comply with the rule he seeks to invoke, his Motion for Sanctions must be denied. *See Roth v. Green*, 466 F.3d 1179, 1191-92 (10th Cir. 2006).

Wherefore,

IT IS HEREBY ORDERED that Plaintiff's Motion for Sanctions is DENIED.



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UNITED STATES MAGISTRATE JUDGE